

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SU SEND CHANG TRAN, VANG VAN)	CIVIL NO. 18-00327 JAO-RLP
TRAN, AND CHIH CHIEH CHANG,)	
)	FINDINGS AND RECOMMENDATION TO
Plaintiffs,)	DISMISS THIS ACTION WITHOUT
)	PREJUDICE
vs.)	
)	
FOOD PLANNING SERVICE HAWAII)	
INC., ET AL.,)	
)	
Defendants.)	
)	

FINDINGS AND RECOMMENDATION TO
DISMISS THIS ACTION WITHOUT PREJUDICE¹

This action was filed on August 21, 2018. ECF No. 2018. The Court issued a Deficiency Notice on December 11, 2018, stating that Plaintiffs must serve, or show good cause for the failure to serve, the Complaint and Summons on Defendants within thirty days and that failure to do so may result in dismissal of this action for failure to prosecute or otherwise follow a court order. See ECF No. 10. Instead of filing a response to the Deficiency Notice, Plaintiffs' counsel filed a Motion to Withdraw as Counsel exactly thirty days after the Deficiency Notice was issued. See ECF No. 11. The Court issued a minute order

¹ Within fourteen days after a party is served with a copy of the Findings and Recommendation, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections in the United States District Court. A party must file any objections within the fourteen-day period allowed if that party wants to have appellate review of the Findings and Recommendation. If no objections are filed, no appellate review will be allowed.

directing Plaintiffs' counsel to file a declaration regarding her efforts to effect service in this action and whether she has informed her clients of the Court's Deficiency Notice. ECF No. 12. Further, the Court directed briefing on Plaintiffs' counsel's Motion to Withdraw. Id.

Plaintiff's counsel filed a declaration as directed stating that service had not been accomplished and that she had provided Plaintiffs with notice and copies of the Court's Deficiency Notice. See ECF No. 14. Although provided with an opportunity to do so, Plaintiffs did not file an opposition or other response to counsel's Motion to Withdraw. See ECF Nos. 11-6, 13.

On February 13, 2019, the Court issued an Order granting Plaintiffs' counsel's request to withdraw and issued a second Deficiency Notice stating that Plaintiffs must serve, or show good cause for the failure to serve, the Complaint and Summons on Defendants within thirty days of the second Deficiency Notice and that failure to do so may result in dismissal of this action for failure to prosecute or otherwise follow a court order. See ECF No. 15. The second Deficiency Notice was served on Plaintiffs by the Clerk's Office.

Plaintiffs have not filed proof of service or any other response to the Court's second Deficiency Notice. Accordingly, the Court FINDS AND RECOMMENDS that this case be dismissed

without prejudice pursuant to Federal Rule of Civil Procedure
4(m).

IT IS SO FOUND AND RECOMMENDED.

DATED HONOLULU, HAWAII, MARCH 18, 2019.




Richard L. Puglisi
United States Magistrate Judge

TRAN, ET AL. V. FOOD PLANNING SERVICE HAWAII INC., ET AL.; CIVIL NO.
18-00327 JAO-RLP; FINDINGS AND RECOMMENDATION TO DISMISS THIS ACTION
WITHOUT PREJUDICE